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Decision No. 76226

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of JOHN M. COSTA,  
(Surviving Partner of J. M. Costa & Son)  
for transferring certificate of public  
convenience and necessity for highway  
common carrier of cement in San Luis  
Obispo County.

Application No. 51316  
(Filed August 12, 1969)

O P I N I O N

John Modesto Costa requests that a certificate of public convenience and necessity authorizing operations as a cement carrier be transferred to himself as the surviving partner of a partnership known as J. M. Costa & Son.

The certificate was set forth in Commission Resolution No. 13821 dated June 23, 1964 Sub. No. 5 in Application No. 46483, File T-26,618.

Applicant is the son and surviving partner of his father John Marcellino Costa who died on August 15, 1965. Applicant is also the executor and sole heir of his father's estate.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by John Marcellino Costa and the issuance of a certificate in appendix form to John Modesto Costa.

John Modesto Costa is hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any

amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, these rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. On or before May 1, 1970, John Modesto Costa as Executor of the Estate of John Marcellino Costa may transfer, and John Modesto Costa may acquire, the operative rights referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, transferee shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.
3. Transferee shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that he has adopted or established, as his own, said rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 117. Failure to comply

A. 51316 Mjo

with and observe the provisions of General Order No. 117 may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, transferee shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the transferor for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to John Modesto Costa, authorizing him to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix A, attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificate of public convenience and necessity granted by Resolution No. 13821 Sub. No. 5, in Application No. 46483, T-26,618 which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. Within thirty days after the transfer herein authorized is consummated, transferee shall file a written acceptance of the certificate herein granted. Transferee is placed on notice that, if he accepts the certificate of public convenience and necessity herein granted, he will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol, and insurance requirements of the Commission's General Order No. 100-E.

A. 51316 Mjo

8. Transferee shall maintain his accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

9. Transferee shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If transferee elects not to transport collect on delivery shipments, he shall make the appropriate tariff filings as required by the General Order.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 30<sup>th</sup> day of SEPTEMBER, 1969.

William Lyons, Jr.  
President

[Signature]  
[Signature]  
Vernon L. Steiger  
Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

John Modesto Costa, an individual, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct operations as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, from any and all points of origin to all points and places within the county of:

San Luis Obispo

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 76226, Application No. 51316.